



Yuma County, Arizona
DEPARTMENT OF DEVELOPMENT SERVICES
2351 West 26th Street, Yuma, Arizona 85364
Phone: (928) 817-5000
Fax: (928) 817-5020

**YUMA COUNTY BOARD OF ADJUSTMENT
MEETING MINUTES**

DATE: Tuesday, November 17, 2015

PLACE: Aldrich Auditorium, 2351 West 26th St., Yuma, AZ

1. Call to Order the Regular Session of the Yuma County Board of Adjustment and roll call to verify quorum.

Vice Chairman Joe Harper convened the Board of Adjustment meeting to order at 1:00 p.m. Members present were Neil Tucker, Ron Rice, and Tim Eisenmann.

Others Present: Planning Director Maggie Castro, Associate Planner Marilu Garcia, Deputy County Attorney Ed Feheley and Office Specialist II Kristen Davalos.

2. Pledge of Allegiance.

Vice Chairman Joe Harper led the Pledge of Allegiance.

3. Approval of Board of Adjustment regular meeting minutes of October 20, 2015.

Tim Eisenmann made a motion recommending approval of the Board of Adjustment regular meeting minutes of October 20, 2015. Neil Tucker seconded the motion. The motion carried 4-0.

4. Variance Case No. 15-03: Allan Felton and Mary J. Felton requests a Variance from the Yuma County Zoning Ordinance, Section 609.05—Minimum Lot Width and Principal Buildings Setback Requirements, to allow a rear yard setback of six feet and six inches and a side yard setback of six feet and six inches on a parcel 7,040 square feet in size zoned Recreational Vehicle Subdivision, Assessor's Parcel Number is 728-54-098, located at 13347 East 52nd Drive, Yuma, Arizona.

Marilu Garcia, Associate Planner, presented the staff report recommending approval of Variance Case No.15-03 based on the following findings:

1. Staff finds Approval of this variance may not have an adverse effect on public health, safety, and welfare.
2. The condition is not self-imposed.

If the Board approves this Variance, staff recommends the following conditions:

Board of Adjustment
Regular Meeting Minutes – November 17, 2015

1. This variance is valid for the time limits outlined in Section 403.07 of the Zoning Ordinance.
2. A Change of Occupancy permit shall be obtained by the owner within 60 days of approval by the Board of Adjustment.
3. A range disclosure and restricted airspace disclosure shall be recorded by the owner/agent within 60 days of approval by the Board of Adjustment.

Marilu Garcia stated that staff did receive comments with no objection to this variance.

Vice Chairman Harper opened the public hearing.

Allen and Mary Joe Felton, property owners approached the Board. Mr. Felton stated that when they bought the property they were told by the realtor that it was a house. Mr. Felton stated that they contacted the realtor and went to a title company and found out why they should have bought title insurance. The title company was upset because the applicant had also gone to the County Assessor's office and the County assessed it as a house. Mr. Felton stated that they are paying house taxes on the property. Mr. Felton stated that the building is not a support building. He explained that they talked to Patrick Headington, Chief Building Code Official, who provided them with a list of items that they would need to do in order to bring the building to code. Mr. Felton also reported that the title company has stated that they will assist with bringing the structure up to code if the applicant is granted the variance. Tim Eisenmann asked the owner if the building is currently being used as a house. Mr. Felton stated yes. Mr. Eisenmann then asked if the applicants are now living in the building. The applicant stated no and that it is not currently being lived in. Mr. Felton stated that they are living in a motor home. Mr. Felton explained that it is a guest house and have had people sleep in it last year, but not this year. Mr. Eisenmann asked the applicant if it was originally a garage and now has been converted into living quarters. Mary Joe Felton stated that they came to get a permit to change the garage into a living room so that they wouldn't have a garage in the house. Mrs. Felton explained that when they came for the permit is when they found out that it was a support building rather than a house. Mrs. Felton stated that they wanted to add a doorway. Mr. Felton stated that they want to turn it into a house with a doorway from the kitchen into the living room. Joe Harper stated that what he thinks happened is that the applicants were not told the truth. Mr. Felton stated that even on the disclosure sheet the seller disclosed that all of the permits were right and there were no problems. Mr. Harper stated that what the applicants are trying to do is bring it up to code. The applicants agreed with Mr. Harper's statement. Mr. Eisenmann asked the applicants if it was originally permitted as a garage with all the appropriate setbacks. Mr. Felton asked staff if it was a support building. Marilu Garcia replied stating that it was specified as a garage with bath and utilities. Mr. Eisenmann asked staff if all of the setbacks were legal back then. Marilu Garcia stated that the setbacks were legal back then. Ron Rice stated that at the time the building was built it was legal.

Ron Rice made a motion recommending approval of Variance Case No. 15-03 as proposed by staff. Neil tucker seconded the motion. The motion carried 4-0.

- 5. Variance Case No. 15-14:** Harvey R. Campbell, agent for Gerald Lee Thomas, requests a variance from the Yuma County Zoning Ordinance, Section 801.01 - Permitted Districts for Off-Site Signs, to allow the placement of one sign located a distance of approximately 350 feet and 540 feet from two existing signs where 800 feet is required and another sign located a distance of approximately 375 feet from an existing sign where 600 feet is required on a parcel 29.87 acres in size zoned Light Industrial and General Commercial, Assessor's Parcel Number 197-06-002, located south of County 10th Street, approximately 1,000 feet east of Avenue 4E and adjacent to Interstate 8, Yuma, Arizona.

Marilu Garcia, Associate Planner, gave the staff report recommending denial of Variance Case No. 15-14 based on:

1. Staff finds there is no hardship arising from conditions or circumstances unique to the development of this property.
2. Staff finds approval of this variance may have an adverse effect on public health, safety, and welfare.
3. Staff finds granting this variance to allow a reduction of off-site sign separation requirements appears to confer a special privilege not commonly enjoyed by others in the zoning district.

If the Board of adjustment approves this Variance, staff recommends the following conditions:

1. This variance is valid for the time limits outlined in the Section 403.7 of the Zoning Ordinance.
2. An aviation disclosure statement shall be recorded by the owner/applicant within 60 days of approval by the Board of Adjustment.
3. Any lighting on the sign shall be aimed downward.

Marilu Garcia stated that staff received comments with objections to this Variance.

Neil Tucker asked staff to explain the concerns staff has about adverse effects on public health, safety, and welfare. Marilu Garcia explained that the purpose of the off-site sign regulations separation requirements as specified in the Zoning Ordinance is to promote traffic safety, promote the character of the area and that property values and aesthetics are preserved. In that over concentrated area with a lot of billboards, there is a concern that there may be a distraction. Vice Chairman Harper asked staff for a copy of the ordinance. Mr. Harper asked staff to explain that portion to the Board. Marilu Garcia explained what the symbols on the Power Point slide represented and the required separation requirements per Section 801.01 of the Zoning Ordinance that specifies that any off-site billboard shall be distanced 800 feet. Mr. Eisenmann asked staff if the existing signs violate setback requirements. Marilu Garcia explained that the City of Yuma specified that they were non-conforming signs.

Vice Chairman Harper opened the public hearing.

Board of Adjustment
Regular Meeting Minutes – November 17, 2015

Harvey Campbell, agent, 4155 East County 13½ Street, Yuma, AZ, approached the Board. Mr. Campbell explained to the Board that originally this was submitted by a vendor and signed by a Mr. Thomas whom was hired there. The agent explained that they filed a permit with the staff of the County. Mr. Campbell stated that the permit request was submitted for three signs. Mr. Campbell further explained that the first sign permit was granted by staff. Mr. Campbell reported that Planner Javier Barraza stated that there is a variance needed due to issues that staff has pointed out. Mr. Campbell stated that there is a discrepancy and outlined the codes in the presentation presented by staff and discussed the radius. He also explained that there are three agencies involved, the County, the City and ADOT. Mr. Campbell explained that the County's ordinance reads very specific that there is no word of radius in the document and there is no word about across the freeway so it's linear feet. Mr. Campbell asked the Board why they are there for a variance when they comply with every single requirement for the sign ordinance under Section 801. Mr. Campbell explained that they have to comply with ADOT's distance requirements of 500 feet and they are in compliance. Mr. Campbell explained that if the variance is granted, he will have to get a permit from ADOT because they have the ultimate say and they have to comply with ADOT's requirements also. Mr. Campbell stated that the County asked if they can move the sign a few hundred feet so they are in compliance, but they can't because then they would be outside ADOT's distance requirement of 1,000 feet. Mr. Campbell further explained that ADOT doesn't have the variance process like the county does so they have to get the variance with the county and then apply with the state of Arizona. Mr. Campbell explained that they are in compliance with both the County and ADOT's provisions. Mr. Campbell explained that lighting would be directed down and stated that he told staff that they would comply if the Board would grant them a variance. Mr. Campbell stated that they would comply with the three requirements that the County suggested and the staff recommendations. Mr. Campbell explained that he doesn't think there needs to be a variance and stated that it is not a non-conforming use and that they are in compliance with the County's code. Ron Rice asked the agent if the three signs indicated on the site map are already there. The agent explained that yes the three signs are already there and are in compliance. Neil Tucker asked the agent about a sign on the site plan being 800 feet. The agent pointed the sign out to Mr. Tucker and discussed the separation of the billboards. Mr. Campbell stated that they are in compliance with the requirements. Mr. Eisenmann asked the agent if the sign is readable from both sides. Mr. Campbell replied yes. Mr. Harper explained to the applicant that the Board is thinking about the safety factor and being able to read from both sides. Mr. Rice stated that he would assume that the lights would be turned down for aircraft. Mr. Campbell said that is correct, that is one of the conditions that the County requested. Mr. Campbell explained that he doesn't know the purpose of having an aviation disclosure, but would comply. Maggie Castro, Planning and Zoning Director, stated that the disclosure statement is not for the billboard, it is for the property. Maggie Castro further explained that it would be putting any future property owner on notice that the property is under the Airport District or high noise or accident potential zone. Mr. Harper stated that he understood that it was for a property. Mr. Campbell stated that they have had no opposition aside from the City.

Board of Adjustment
Regular Meeting Minutes – November 17, 2015

Tim Eisenmann made a motion recommending approval of the Variance Case No. 15-14 with conditions recommended by staff. Ron Rice seconded the motion. The motion carried 3-1.

Variance Case No. 15-15: Christopher Morris of Calculated Designs, agent for Tyrone and Kathryn Northcutt, requests a variance from the Yuma County Zoning Ordinance, Section 601.05-Minimum Lot Width and Principal Buildings Setback Requirements, to allow a side yard setback of zero feet on a parcel 18,295 square feet in size zoned Rural Area-20 acre minimum, Assessor's Parcel Number 459-51-012, located at 10538 Martinez Lake Road, Yuma, Arizona.

Marilu Garcia, Associate Planner, gave the staff report recommending approval of Variance Case No. 15-15 based on:

1. Staff finds the irregular shape and topography of the lot are peculiar conditions which deprive the property of privilege enjoyed by other property owners in the zoning district.
2. Staff finds there are specific peculiar conditions applicable to this property to warrant granting of a variance.
3. Staff finds the condition is not self-imposed.

If the Board of adjustment approves this Variance, staff recommends the following conditions:

1. This variance is valid for the time limits outlined in the Section 403.7 of the Zoning Ordinance.
2. A floodplain use permit shall be obtained
3. New development will require connection to the existing private sewer line. If connected to sewer system is not feasible, an alternate septic system shall be installed due to the proximity of Martinez Lake.
4. All Construction shall comply with the Yuma County Comprehensive Building Safety Code.

Marilu Garcia stated that staff did receive comments with no objection to this variance.

Tim Eisenmann asked staff if the second recommendation is from an existing property owner. Marilu Garcia replied that the in email support was from an ERA realtor. Mr. Eisenmann asked if the realtor lived in the area. Marilu Garcia stated that the realtor does not reside in that area and that they just submitted an email.

Vice Chairman Harper opened the public hearing.

Chris Morris of Calculated Designs, agent, 2615 East 24th Street, Suite 5, Yuma, AZ., Tyrone Northcutt, and Private Sewer Improvement District Owner Mr. Thomas 10539 North Martinez Lake Road, Yuma, AZ all approached the Board. Mr. Thomas stated that he installed sewer for all the properties that are connected to the main sewer district that is in the area. Mr. Thomas explained that he set all the lines up to each block to get them off of septic systems and away from the lake. Mr. Thomas further explained that the bacteria levels have gone down since they have been switched to

Board of Adjustment
Regular Meeting Minutes – November 17, 2015

sewer. Mr. Thomas stated that he has a letter from the property owners from the left and the right of the property approving the request with no problem. Chris Morris added that proposed new structure would be in the same location where the existing structure already is. Mr. Morris stated that the construction of the new building would meet all of the fire requirements and everything the Building Safety Division has in place for a building at this setback. Mr. Morris stated that the Martinez Lake subdivision is close by to the location of this property where they build on zero setbacks and is common for the area within their Planned Development that was put in place. Mr. Morris explained that the majority of the Martinez Lake lots, because of the configuration, have to come to the County before the house can be built because there cannot be anything built with the existing setbacks that they have. Mr. Harper stated that some of the Board members went out to the area to look at some of the lots because it is difficult to understand what is happening as far as the lot lines are concerned. Mr. Morris explained that a lot of the times when the setbacks overlap each other there is nothing left to build. Mr. Harper stated that the Board is aware of a lot of the problems in the area. Mr. Tucker asked the agent if the existing shade structure was in violation of the permit that was granted. The agent stated that it is not known for certain. Mr. Northcutt explained that there was a survey completed and the setback is 3 feet wide. He stated that the block wall is a part of his property. Mr. Thomas stated that when he installed the sewer system he had it surveyed and it was on a 3 foot mark. Mr. Rice asked the agent if the building would affect the septic system. Mr. Thomas stated that it would not affect the system and is designed to handle the building. He further explained that each of the lots have their own individual pipe to each property. Mr. Rice asked Mr. Thomas if the system is designed to handle this type of building. Mr. Thomas replied yes, it feeds a 12 inch ream that's at the top of the hill. Mr. Thomas stated that he built a manifold at the top of the hill with back blow in case that 12 inch had a problem. Mr. Thomas stated that Pat Headington came out and inspected the property.

Jeff Caster 10520 North Martinez Lake Road, lot 7, Yuma, AZ stated that he is for approval of the variance. Mr. Caster explained that there is no room on the lot. He further explained that the property owner would not get a garage if he doesn't get a zero setback variance.

Mr. Eisenmann asked staff why all parcels have a zoning district of RA-20. Maggie Castro stated that the lots are part of the Martinez Lake Cabin sites and are pre-ordinance non-conforming lots. Maggie Castro stated that they were first established as federal leases and then state leases. She further explained that the state sold the parcels to individual property owners so they do not conform to the RA-20 zoning classification. When they were state and federal leases they did not have to comply with zoning. Once they became fee title or under private ownership they were required to comply with zoning. Mr. Eisenmann asked Maggie Castro if there is any intent on going back and getting the zoning changed. Maggie Castro stated that the property owners would have to request that the area is changed or the Planning Commission could initiate a Commission Initiative to rezone the properties to an appropriate zoning district. There may be issues if the Planning & Zoning Commission decides to take it on its own initiative due to Proposition 207 issues and they would have to get property owners to agree to have the properties rezoned to a

Board of Adjustment
Regular Meeting Minutes – November 17, 2015

zoning district that matched the lot sizes. Mr. Harper asked Maggie Castro if it would be advantage to the property owners to do so. Maggie Castro stated that because they are non-conforming lots they do have rights to develop the lots in compliance with the RA-20 zoning district and they do need to meet setbacks depending on the width of the lot they can have side yard setbacks of 5 feet or 10 percent of the width if the lot. She further explained that if the property owners want anything smaller they have the variance mechanism that they can also pursue. Mr. Harper stated that it seems that every time someone is planning on building in the area they have to come in to the Board to get a variance.

Ron Rice made a motion recommending approval of the Variance Case No. 15-15 with conditions recommended by staff. Neil Tucker seconded the motion. The motion carried 4-0.

6. Adjourn.

The meeting adjourned at 2:03 p.m.

These minutes were approved and accepted on this 15th day of December, 2015.



Witness:
Joe Harper
Vice Chairman



Attest:
Maggie Castro
Planning Director